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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL (L) NO. 189 OF 2006

The Commissioner of Income Tax ... Appellant

Versus

Sulzer Pumps Ltd. ... Respondent

Mr. Vimal Gupta for the Appellant.

Mr. A.K. Jasani for Respondent.

CORAM: F.I. REBELLO &
J.P. DEVADHAR, JJ.
DATED: SEPTEMBER 18, 2007

P.C.:

. The appeal has been preferred on the following question of law :

> " Whether on the facts and in the circumstnaces of the case, and in the law the ITAT was justified in upholding the order of hte CIT (A) in deleting hte levy of penalty under section 271(1)(c) of hte I.T. Act?"

. The learned tribunal upheld the order of the Commissioner (Appeals) on the ground that the claims by the appellant in the return of Income Tax were bona fide. In K.C.Builders Vs. C.I.T.(SC) 265 ITR 562 S.C. has held that for the purpose of deleting

the penalty there must be mans rea. In the instant case, as the finding is that it was bona fide, in our opinion, the question of law as framed would not arise. Hence,. appeal dismissed.

(J.P. DEVADHAR, J.) **(F.I.REBELLO, J.)**